

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 26) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR WEDNESDAY, JULY 14, 2021

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Wednesday, July 14; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; further, that upon the conclusion of morning business, the Senate proceed to executive session to resume consideration of the Samuels nomination; further, that the cloture motions filed during yesterday's session of the Senate ripen at 11:30 a.m.; that if cloture is invoked on the Samuels nomination, the Senate immediately vote on cloture on the Nanda nomination; further, that the Senate recess following the cloture vote on the Nanda nomination until 2 p.m.; that if cloture is invoked on either of the nominations, all postcloture time expire at 2:35 p.m. and the Senate vote on confirmation of the nominations in the order in which cloture was invoked; finally, that if any of the nominations are confirmed, the motions to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. WHITEHOUSE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order following the remarks of Senator GILLIBRAND.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1520

Mrs. GILLIBRAND. Mr. President, I rise today to once again call for every Senator to have the opportunity to consider and cast their vote for the Military Justice Improvement and Increasing Prevention Act.

The bill would remove all serious crimes except for military-specific crimes out of the chain of command and give it to trained military prosecutors to decide whether or not to move that case to trial. Making that change would end days of asking commanders, who are not trained lawyers, to make complex legal decisions in cases where they often know both the accuser and the accused. That change is necessary. It is necessary because the current military justice system is simply not delivering justice, especially not to servicemembers of color.

I am proud that our legislation has recently won the endorsement of our colleagues in the Congressional Black Caucus, who have highlighted how this reform would address the systemic barriers to justice our servicemembers of color face. I want to thank the CBC for their strong support. I share their urgency when it comes to addressing those systemic injustices.

Right now, Black servicemembers are up to 2.61 times as likely to face disciplinary action as their fellow White servicemembers, and Black and Hispanic servicemembers are more likely than White servicemembers to be tried in general and special courts-martial across the military services.

The Joint Service Committee on Military Justice began collecting data on race and courts-martial last June. Even in the brief period of time they have tracked, the disparities are tragically clear. In the Army, just 21.4 percent of Active-Duty servicemembers are Black, but Black servicemembers account for 35.5 percent of the accused in general courts-martial. In the Air Force, just 14.7 percent of Active-Duty servicemembers are Black, but they account for 23.1 percent of the accused. In the Navy, 17.2 percent of Active-Duty servicemembers are Black, but they account for 34.3 percent of the accused. Those figures speak to an inherent bias in the system that must be addressed.

Congressman ANTHONY BROWN, who served in the military for 30 years and worked as an Army judge advocate general and as a clerk for then-Chief Judge Eugene Sullivan at the U.S. Court of Appeals for the Armed Forces, recently wrote in the Washington Post about the need to pass this legislation. He wrote:

Following the police killings of George Floyd, Breonna Taylor and too many more Black and Brown Americans, there has been a nationwide call to address the disparities in our criminal justice system. But these efforts cannot overlook the criminal justice system that is not on the front pages or in [the] television news—[that is] the one in [the U.S.] military. The current military justice system is not serving our country's higher values of justice, equity and fairness. It has put servicemembers of color at a disadvantage and left them subject to a commander-controlled system they do not trust.

In a survey last year of members of the Air Force and [in the] Space Force, 3 in 5 Black servicemembers said they would not receive the same benefit of the doubt as their White peers if they faced disciplinary action. One-third believed the military justice system is actively biased against them.

Those fears are corroborated by the facts. . . . Our military justice system mirrors the discrimination in the civilian criminal justice system, sometimes rising to a life-or-death matter. A 2012 study showed that, before its last use decades ago, nearly two-thirds of servicemembers sentenced to death were servicemembers of color. These longstanding disparities and this unjust system demand our attention and action.

These disparities are longstanding. A task force established by President Nixon's Secretary of Defense in 1972 identified many of the same issues and same causal factors we see today. The task force reported:

In the course of our conversations with black and Spanish-speaking [servicemembers] throughout the world, we became convinced that the black or Spanish-speaking enlisted man is often singled out for punishment by white authority figures where his white counterpart is not. There is enough evidence of intentional discrimination by individuals to convince the Task Force that such selective punishment is in many cases racially motivated.

I know that some of my colleagues have called for more time to study this issue. I would point them to a 2020 review from the Air Force inspector general, which found that for every year between 1999 and 2019, Black airmen were 60 percent more likely to face court-martial and 74 percent more likely to receive nonjudicial punishment from their commanders than their White counterparts. That is 20 years of data telling the same unacceptable story. What more proof do they need?

It has been nearly 50 years since the Nixon administration's task force brought this issue to light, and we have seen little positive change. Our servicemembers cannot wait any longer. Congressman BROWN is right—this unjust system demands our attention and action.

As Members of Congress, we have the constitutional duty to provide oversight and accountability over the Department of Defense. We have the job of writing and revising and improving the military code of justice. It is a congressionally created code. Addressing these disparities is our responsibility and no one else's. This bill will help us do that. Now is the time to act.

In addition to the Congressional Black Caucus, this bill is supported by legal experts and servicemembers. It has the support of almost every veteran group I can find, from the Iraq and Afghanistan veterans group to the Vietnam veterans group, to the Veterans of Foreign Wars. This is supported by our servicemembers and our veterans.

It also has the support of a growing number of bipartisan Congress Members in the House. It also has the support of 66 U.S. Senators—a filibuster-proof majority. If the vote were called today, it would pass. This bill should be voted on.

Mr. President, I ask unanimous consent that at a time to be determined by the majority leader in consultation with the Republican leader, the Senate Armed Services Committee be discharged from further consideration of